

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT**

**IN THE MATTER OF:**

RICKY RICIDO REID  
FKA EBONY J. FLACK,  
EBONY ESSENCE REID  
FKA EBONY J-ESSENCE FLACK,

Case No. 13-42467-PJS  
Honorable PHILLIP J. SHEFFERLY  
Chapter 7

Debtors.

8776 Woodside  
Oak Park, MI 48237  
XXX-XX-4614  
XXX-XX-5388

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**MOTION TO VACATE THE AUTOMATIC STAY  
AS TO THE WAYNE COUNTY TREASURER**

**NOW COMES** the Wayne County Treasurer, by and through its counsel, KILPATRICK & ASSOCIATES, P.C., and moves this Court to vacate the Automatic Stay as it relates to Wayne County Treasurer ("Treasurer"), and in support thereof states as follows:

1. On or about February 12, 2013, the Debtors filed a Voluntary Petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code.

2. The Wayne County Treasurer is a Creditor in this case; it is the tax collecting governmental unit for Wayne County, Michigan. As such, it is the Treasurer's duty to collect property taxes which accrue on both real and personal property for the County and various cities within the County.

3. The Treasurer brings this Motion pursuant to 11 U.S.C. § 362(d) and Fed. R. Bankr. P. 4001 and L.B.R. 4001-1 (E.D.M.). This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334 and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

4. The Estate includes real property located at 14119 Houston-Whittier, Detroit, Michigan ("Property").

5. On the date of the filing of the Chapter 7 case, the Treasurer held claims in the amount of Fourteen Thousand Two Hundred Fifty Seven and 17/100 Dollars (\$14,257.17) for the tax years of 2010, 2011, 2012 and 2013;

6. The amount due and owing to the Treasurer accrues interest at the rate of one percent (1%) per month or twelve percent (12%) per annum or more pursuant to MCL 211.59.

7. Based upon information and belief, the estimated value of Debtors' real property located at 14119 Houston-Whittier, Detroit, Michigan ("Property") is approximately Thirty Five Thousand Two Hundred Fifty Two and 00/100 Dollars (\$35,252.00).

8. Based upon information and belief, the 14119 Houston-Whittier Property is subject to a mortgage held by Chase Manhattan Mortgage.

9. The Estate includes real property located at 14115 Houston-Whittier, Detroit, Michigan ("Property").

10. On the date of the filing of the Chapter 7 case, the Treasurer held claims in the amount of Six Thousand Six Hundred Eighty Four and 18/100 Dollars (\$6,684.18) for the tax years of 2011, 2012 and 2013;

11. The amount due and owing to the Treasurer accrues interest at the rate of one percent (1%) per month or twelve percent (12%) per annum or more pursuant to MCL 211.59.

12. Based upon information and belief, the estimated value of Debtors' real property located at 14115 Houston-Whittier, Detroit, Michigan ("Property") is approximately Thirty One Thousand One Hundred Seventy Two and 00/100 Dollars (\$31,172.00).

13. Based upon information and belief, the 14115 Houston-Whittier Property is subject to a mortgage held by Seterus Inc.

14. The Estate includes real property located at 14573 Ilene, Detroit, Michigan ("Property").

15. On the date of the filing of the Chapter 7 case, the Treasurer held claims in the amount of Eight Thousand One Hundred Ninety Two and 79/100 Dollars (\$8,192.79) for the tax years of 2009, 2010, 2011, 2012 and 2013;

16. The amount due and owing to the Treasurer accrues interest at the rate of one percent (1%) per month or twelve percent (12%) per annum or more pursuant to MCL 211.59.

17. Based upon information and belief, the estimated value of Debtors' real property located at 14573 Ilene, Detroit, Michigan ("Property") is approximately Fifteen Thousand Six Hundred Ninety Six and 00/100 Dollars (\$15,696.00).

18. Based upon information and belief, after review of the Debtors' schedules, the property is not subject to a mortgage.

19. The Treasurer's claims are secured by a lien against the Debtors' property, which is superior to all other security interest or liens pursuant to MCL 211.40.

20. Contrary to Debtors' obligations, the Debtors have neglected, failed and refused to pay real property taxes now properly due and owing.

21. The Debtors' failure to pay real property taxes as same become due and owing constitutes "cause" to vacate the Automatic Stay pursuant to 11 U.S.C. § 362(d)(1).

22. It would be unfair and inequitable for this Court to continue the Stay considering the facts and circumstances of this case.

23. The Wayne County Treasurer sought consent for relief from the Automatic Stay from Debtor's Counsel on March 4, 2014. However, the request was denied.

**WHEREFORE**, Creditor, the Wayne County Treasurer, prays that this Honorable Court vacate the Automatic Stay, allowing the Treasurer to pursue remedies of collection pursuant to applicable state law and grant such other and further relief as this Court deems just and equitable.

Respectfully Submitted,

**KILPATRICK & ASSOCIATES, P.C.**

Attorney for Creditor, Wayne County Treasurer

/S/RICHARDO I. KILPATRICK

RICHARDO I. KILPATRICK (P35275)

615 Griswold, Suite 1708

Detroit, MI 48226

(313) 963-2581

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Dated: March 11, 2014

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT**

**IN THE MATTER OF:**

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**ORDER VACATING THE AUTOMATIC STAY  
AS TO THE WAYNE COUNTY TREASURER**

This matter having come before the Court on the Wayne County Treasurer's Motion to Vacate the Automatic Stay; all parties in interest having been served a copy of said Motion, proposed Order Vacating the Automatic Stay, Brief in Support, Notice of the Motion and a Proof of Service; No objections having been filed and if filed having been resolved or overruled; said Creditor having a validly perfected security interest in the premises located at 14119 Houston-Whittier, Detroit, Michigan pursuant to State law and a claim for unpaid real property taxes in the amount of Fourteen Thousand Two Hundred Fifty Seven and 17/100 Dollars (\$14,257.17) for the tax years of 2010, 2011, 2012 and 2013("Property"); said property having an estimated value of Thirty Five Thousand Two Hundred Fifty Two and 00/100 Dollars (\$35,252.00) ("Property") and being subject to a mortgage held by Chase Manhattan Mortgage; said Creditor having a validly perfected security interest in the premises located at 14115 Houston-Whittier, Detroit, Michigan pursuant to State law and a claim for unpaid real property taxes in the amount of Six Thousand Six Hundred

Eighty Four and 18/100 Dollars (\$6,684.18) for the tax years of 2011, 2012 and 2013("Property"); said property having an estimated value of Thirty One Thousand One Hundred Seventy Two and 00/100 Dollars (\$31,172.00) ("Property") and being subject to a mortgage held by Seterus Inc; said Creditor having a validly perfected security interest in the premises located at 14573 Ilene, Detroit, Michigan pursuant to State law and a claim for unpaid real property taxes in the amount of Eight Thousand One Hundred Ninety Two and 79/100 Dollars (\$8,192.79) for the tax years of 2009, 2010, 2011, 2012 and 2013("Property"); said property having an estimated value of Fifteen Thousand Six Hundred Ninety Six and 00/100 Dollars (\$15,696.00) ("Property"); and the Court being fully advised in the premises:

**IT IS ORDERED** that the Automatic Stay shall be and is hereby vacated to the Wayne County Treasurer as to the Properties, and the Wayne County Treasurer can take any and all actions available under applicable state laws to collect its debt(s).

**IT IS FURTHER ORDERED** that in the event the Wayne County Treasurer receives proceeds in excess of the amount of the claims due to the Treasurer plus attorney fees and costs, the Wayne County Treasurer shall turn the surplus over to the Trustee.

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
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**NOTICE OF MOTION TO VACATE THE AUTOMATIC STAY  
AS TO THE WAYNE COUNTY TREASURER**

The Wayne County Treasurer, has filed a Motion to Vacate the Automatic Stay with the United States Bankruptcy Court, Eastern District of Michigan, Southern Division – Detroit.

A complete copy of the Motion is on file with the Clerk of the Court at the U.S. Bankruptcy Court located at 211 W. Fort St., Ste 2100, Detroit, Michigan 48226.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the Court to vacate the Automatic Stay, or if you want the Court to consider your views on the Motion, then on or before 14 days from date of service, you or your attorney must:

1. File with the Court a written response or an Answer, explaining your position at: United States Bankruptcy Court, 211 W. Fort St., Ste. 2100, Detroit, MI 48226.

If you mail your response or Answer to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

You must also mail a copy to:

Richardo I. Kilpatrick, Kilpatrick & Associates, P.C., 903 N. Opdyke Road, Suite C, Auburn Hills, Michigan 48326.

Charles Taunt, Chapter 7 Trustee, 700 East Maple Road, Second Floor, Birmingham, Michigan 48009-6359;

Ricky Ricido Reid fka Ebony J. Flack and Ebony Essence Reid fka Ebony J-Essence Flack, Debtor, 8776 Woodside, Oak Park, MI 48237

Walter A. Metzen, Debtor's Attorney, 3156 Penobscot Building, 645 Griswold Street, Detroit, MI 48226

2. If a response or Answer is timely filed and served, the Clerk of the Court will schedule a Hearing on the Motion and will serve you with notice of the date, time and location of the Hearing.

**If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.**

Respectfully Submitted,

KILPATRICK & ASSOCIATES, P.C.  
Attorney for Creditor, Wayne County  
Treasurer

/S/RICHARDO I. KILPATRICK  
RICHARDO I. KILPATRICK (P35275)  
615 Griswold, Suite 1708  
Detroit, MI 48226  
(313) 963-2581

Dated: March 11, 2014



**UNITED STATES BANKRUPTCY COURT  
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**BRIEF IN SUPPORT OF MOTION TO VACATE THE AUTOMATIC  
STAY AS TO THE WAYNE COUNTY TREASURER**

**FACTS**

The Debtors filed a voluntary petition for relief on or about February 12, 2013, under Chapter 7 of Title 11, the United States Bankruptcy Code. The Estate includes real properties located at 14119 Houston-Whittier, 14115 Houston-Whitter and 14573 Ilene, Detroit, Michigan ("Properties").

The amount currently due and owing on the Property to the Treasurer is Twenty Nine Thousand One Hundred Thirty Four and 14/100 Dollars (\$29,134.14) as a result of the Debtors' to pay the taxes as they have become due.

**ARGUMENT**

11 U.S.C. § 362(a) prohibits creditors from taking any action to enforce liens or collect claims against the Debtors upon the filing of the Debtors' Chapter 7 Petition. The Stay continues in effect until the case is closed or dismissed or, in the case of property, until the property is no longer property of the estate.

The Code also provides, however, that a creditor may be granted relief from the Stay for cause. 11 U.S.C. § 362(d)(1). Although the example given

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in the Code for “cause” is lack of adequate protection of an interest in property, the term “cause” is not limited to lack of adequate protection and may exist whenever the

Stay harms the creditor and vacating the Stay will not unjustly harm the Debtors or other creditors. In re Chirillo, 84 B.R. 120 (Bankr. N.D. Ill. 1988). The decision to vacate the Stay, however, is a matter for the discretion of the Bankruptcy Judge. In re White, 851 F.2d 170 (6th Cir. 1988); In re Moralez, 128 B.R. 526 (Bankr. E.D. Mich. 1991). The decision is made on a case by case basis, by examining such factors as whether relief from the Stay will affect the administration of the estate and by balancing the harm to the parties. Moralez, supra.

When a taxpayer fails to pay property taxes, Michigan law permits the taxing authority (in this instance, the Treasurer) to seize the taxpayer’s property in order to satisfy its claims. The Treasurer could have taken this action but for the Automatic Stay. If the Treasurer is not permitted to take such action, the Debtors are allowed to avoid the consequence of losing the properties for non-payment of taxes which changes the purpose of the Automatic Stay into a means of delaying payment of this obligation instead of the shield that it was intended to be.

In conclusion, Creditor, the Wayne County Treasurer, states that vacating the Automatic Stay in this case will not unjustly harm the Debtors, but the continued presence of the Automatic Stay will harm the Treasurer. Therefore, for the reasons stated herein, Creditor, the Treasurer, requests that this Court vacate the Automatic Stay as it relates to the Treasurer.

Respectfully Submitted,

**KILPATRICK & ASSOCIATES, P.C.**

Attorney for Creditor, Wayne County Treasurer

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